

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2343 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UDHNA UDHYOGNAGAR SAHAKARI SANGH LTD & ANR.

Versus

COLLECTOR, SURAT & OTHERS

Appearance:

MR RR MARSHALL for the Petitioners

MR ND GOHIL for the Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/09/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioners prayed that the respondents be ordered to remove all illegal constructions in the area and in accordance with the Government resolution No.JPB/1083/G-O-81/6.

2. The petitioners have not given out the details of the illegal constructions made together with the persons

who made the constructions. There may be possibility that the constructions could have been made by those persons in their own land or they have taken the land over which they have raised the construction from the respondents on lease or licence. Otherwise also such a blanket direction cannot be issued by this court in the absence of the necessary parties i.e. in the absence of the persons who have raised the construction. The petitioners have not impleaded those persons as party to this petition. In the absence of those persons as well as the necessary facts and other documentary evidence, it is not advisable for this court to go on to decide in vacuum whether the constructions raised are illegal or not. The question whether the encroachment has been made or not depends on the adjudication of a competent court on many facts and that is only possible after all the parties are present before the Court. Behind the back of those persons in the garb of alleged construction to be illegal, the petitioner sought for the direction which cannot be given. Any direction of the nature which is prayed for is given behind the back of affected persons it will be against the principles of natural justice.

3. The writ petition is wholly misconceived and the same is dismissed. Rule discharged. Ad-interim relief, if any, granted by this court stands vacated.

zgs/-